



Oklahoma
State
Senate

Legislative Brief

July 2, 2002

SMOKING IN PUBLIC PLACES

Previous law

The Smoking in Public Places Act, codified as sections 1-1521 through 1-1527 of Title 63 of the Oklahoma Statutes, set forth the law in Oklahoma regarding smoking in public places. It provided that most types of businesses could have designated smoking and nonsmoking areas. The only complete prohibition on smoking was during the school day for schools used by students in an early childhood education program or grades kindergarten through twelve. The Act preempted any rules by cities and towns which were more stringent than the Act.

2002 Legislation

Senate Bill No. 1553 (authored by Senator Robinson and Representative Vaughn) which amends Section 1247 of Title 21 of the Oklahoma Statutes was approved by the Legislature and sent to the Governor on April 15, 2002. The Governor signed this measure into law on April 17, 2002. It became effective July 1, 2002. This bill generally prohibits smoking in all buildings owned or operated by the state and within 25 feet of the entrance or exit of such buildings. It does allow for one designated smoking room in each building, provided that such room is directly exhausted to the outside and is under negative air pressure.

Proposed permanent rules

The State Board of Health in its February and March meetings proposed the enactment of permanent rules pursuant to the Administrative Procedures Act which would have prohibited smoking in a wide variety of public places, including bars and restaurants. Proposed permanent rules under the Administrative Procedures Act are subject to disapproval by either the Governor or the Legislature. The Governor disapproved these rules, and they never became effective. Legislation was introduced in the House of Representatives to disapprove these rules (HJR 1059), but when the Governor disapproved the proposed permanent rules, the legislation became moot and was allowed to die.

Emergency Rules

After the 2002 Legislative Session adjourned, the State Board of Health at its June 6, 2002, meeting voted to adopt emergency rules which imposed additional restrictions on smoking in a wide variety of public places, including bars, restaurants, bingo halls, bowling alleys and indoor workplaces. Bars, taverns, restaurants and pool halls may be operated as an all smoking area, as a smoke free area, or as an "effectively smokefree environment", e.g., they may have a designated

smoking room with a separate ventilation system. Other indoor places affected by the rules must either be all nonsmoking or provide a designated smoking room with a separate ventilation system. Governor Keating approved these rules on June 26, 2002, and they became effective July 1, 2002. They will expire at the end of the 2003 legislative session unless they are earlier disapproved by the legislature, are superseded by permanent rules dealing with the same subject, or are overturned by a court of competent jurisdiction. An action was filed June 27, 2002, in the State District Court in and for Creek County challenging the validity of these rules. As of July 2, 2002, this action was pending and no court decision had been rendered.

The complete text of these rules, the Smoking in Public Places Act as amended by Senate Bill No. 1553, and other information on the laws and rules regarding smoking may be found on the Health Department's website at <http://www.health.state.ok.us/>.

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